THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 7890 OF 2004

Date: 12.09.2007

Between:

Ravi Kumar Dolai.

... Petitioner.

And

The Convenor, EAMCET-2003, S.V. Bhavan, Masab Tank, Hyderabad and others.

... Respondents.

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WRIT PETITION NO. 7890 OF 2004

ORDER:

The dispute in this writ petition relates to the social status of the petitioner. The respondents are said to have conducted an enquiry wherein it was established that he does not belong to Bentho Oriya community (Scheduled Tribe) and that he was informed accordingly, vide office order dated 20.05.2004. It is stated that, in such circumstances, the petitioner is not entitled to place reliance on the erstwhile caste certificate to contend that he belongs to the Scheduled Tribe.

Sri O. Kailashnatha Reddy, learned Counsel for the petitioner, would submit that, since the petitioner is in his final year engineering course, ends of justice would require that he be permitted to continue and complete the course subject to the restriction that he not be allowed to claim the benefit of being a scheduled tribe in future. Learned Counsel would place reliance in this regard on a judgment of this Court in W.P. No. 1326 of 2004 dated 20.02.2007. In the aforesaid judgment this Court disposed of the writ petition directing the respondents to allow the petitioner to continue and complete the course, to issue the necessary certificates, and, since the claim of the petitioner in the said writ petition had been rejected, she was held not entitled to claim the

benefit of being a scheduled tribe for future educational purposes or employment unless she succeeds in the appeal filed before the appellate authority.

It is settled law that any benefit obtained on the basis of a caste certificate would not enure to the benefit of such a candidate, if it is later established that he/she does not belong to the Scheduled Castes, Scheduled Tribes and other Backward Classes. The special protection conferred on these socially backward sections of society cannot be extended to those who do not come under its protective umbrella.

Admissions wrongly gained on the basis of a false social status certificate has the effect of depriving a genuine Scheduled Caste or Scheduled Tribe or OBC candidate of the benefits of reservation. Genuine candidates are also denied admission to educational institutions for want of social status certificate. Ineligible persons, who have falsely gained entry, resort to dilatory tactics and create hurdles in completion of the inquiries, into their social status. Often plea of equities or promissory estoppel are put forth for continuance and completion of further course of studies. A party that seeks equity, must come with clean hands. He who comes to the court with a false claim cannot plead equity nor would the Court be justified in exercising its equity jurisdiction in his favour. There is no estoppel as no promise of the social status is made by the State when a false plea is put forth for seeking such social status. When it is found to be a case of fraud neither sympathy nor equitable considerations can come to his rescue. The plea of estoppel is not germane to the beneficial constitutional concessions and opportunities given to genuine tribes or castes. Courts would be circumspect and wary in

considering such cases. (**Kumari Madhuri Patil Vs. Addl. Commr., Tribal Development**[1])

In **R. Vishwanatha Pillai Vs. State of Kerala**[2] the Supreme Court, while rejecting the appellant's contention that as he had rendered 27 years of service, the order of dismissal should be substituted by an order of compulsory retirement to protect his pecuniary benefits, observed:-

"…..**The appellant obtained the appointment against a post meant for a reserved candidate by producing a false caste certificate and by playing a fraud. His appointment to the post was void and non est in the eye of the law**. The right to salary or pension after retirement flows from a valid and legal appointment. The consequential right of pension and monetary benefits can be given only if the appointment was valid and legal. Such benefits cannot be given in a case where the appointment was found to have been obtained fraudulently and rested on a false caste certificate. **A person who entered the service by producing a false caste certificate and obtained appointment for the post meant for a Scheduled Caste, thus depriving a genuine Scheduled Caste candidate of appointment to that post, does not deserve any sympathy or indulgence of this Court. A person who seeks equity must come with clean hands. He, who comes to the court with false claims, cannot plead equity nor would the court be justified to exercise equity jurisdiction in his favour. A person who seeks equity must act in a fair and equitable manner. Equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false caste certificate by playing a fraud. No sympathy and equitable consideration can come to his rescue. We are of the view that equity or compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud**….." (emphasis supplied)

In **Bank of India Vs. Avinash D. Mandivikar**[3], the Supreme Court, relying on its earlier judgment in **R. Viswanatha Pillai**[2], while rejecting the contention of the respondent-employee that, as he had put in nearly three decades of service, had about three years to go before retirement and in terms of the High Court's order he had been denied promotion, the order of the

High Court was an equitable order and did not call for interference, set aside the order of the High Court.

Sri O. Kailashnadh Reddy, learned Counsel for the petitioner, would, however, contend that the petitioner has preferred an appeal to the District Collector on 06.08.2007 along with a petition to condone the delay in preferring the appeal. Learned Counsel would submit that atleast till the disposal of the appeal the petitioner's interests be protected as giving effect to the order of the Revenue Divisional Officer would result in his being prevented from pursuing his engineering course and, even if he were to later succeed in the appeal, a precious academic year would be lost.

It is necessary to note that, under Section 4(1) of the A.P. (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997, the competent authority is empowered to reject an application made under Section 3 for grant of a community certificate. In the present case the order of the Revenue Divisional Officer is an order of rejection. Against such an order an appeal lies to the District Collector under Section 7(1) within thirty days from the date of receipt of the order.

Even though the District Collector, Srikakulam is not a party to the writ petition, since it is not in dispute that the petitioner has preferred an appeal before him, ends of justice would be met if the District Collector, Srikakulam is directed to decide the appeal, and the condone delay petition filed therewith, within a period of four months from the date of receipt of a copy of this order. Pending disposal of the appeal *status quo* existing as on today shall be maintained. It is made clear that this order is being passed as

there was an order of *status quo* in force during the pendency of the writ petition for the past more than three years. It is also made clear that the *status quo* order shall continue only till final orders are passed by the District Collector and not thereafter.

The writ petition is disposed of accordingly.

Date: 12.09.2007 RAMESH RANGANATHAN, J

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[1] (1994) 6 SCC 241
[2] 2004(2) SCC 105
[3] 2005(7) SCC 690